



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

TIMOTHY JORDAN,	§	
Plaintiff,	§	
	§	
vs.	§	CIVIL ACTION 3:20-3435-MGL-PJG
	§	
DANA KRAJACK,	§	
Defendants.	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING THE ACTION WITHOUT PREJUDICE
AND WITHOUT ISSUANCE AND SERVICE OF PROCESS**

Plaintiff Timothy Jordan (Jordan) is self represented. He filed his lawsuit in this Court against Defendant Dana Krajack (Krajack).

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Jordan's case be dismissed without prejudice and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on November 5, 2020, and the Clerk entered Jordan's objections on November 19, 2020. The Court has carefully reviewed the objections, but holds them to be without merit. It will therefore enter judgment accordingly.

As the Magistrate Judge observed in the Report, Jordan "filed an [almost] identical lawsuit in this [C]ourt in August of this year. In that case, the [Magistrate Judge] issued a Report and Recommendation finding that the action [was] subject to summary dismissal for failure to state a claim upon which relief [could] be granted. [Jordan] filed a motion to withdraw his complaint in that case on September 16, 2020, which was granted on October 26, 2020." Report at 1 (citations omitted). According to the Magistrate Judge, "because this case is duplicative of the first lawsuit [Jordan] filed against Krajack, this matter should be summarily dismissed." *Id.* at 2.

Jordan filed his earlier complaint under 42 U.S.C. § 1983, and he has filed this one under 28 U.S.C. § 1331. The gist of Jordan's objections appears to be that his filing this lawsuit against Krajack under Section 1331 means it is not identical to his earlier lawsuit. Thus, as Jordan's reasoning appears to go, he has overcome the Magistrate Judge's conclusion he has failed to state a claim upon which relief can be granted. But, Jordan's conclusory objections and statements, without more, are insufficient to convince the Court he has stated a plausible claim against Krajack under Section 1331. Accordingly, his objections will be overruled.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Jordan's objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court Jordan's action is **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process.

IT IS SO ORDERED.

Signed this 7th day of December, 2020, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.